

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

JAMES HARRELL JR.,

Plaintiff,

v.

ASHLEY LEAL, ET AL.,

Defendants.

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CIVIL ACTION NO. 5:21-CV-49-RWS-JBB

ORDER

Plaintiff James Harrell Jr., proceeding *pro se*, filed the above-captioned action complaining of alleged violations of his constitutional rights. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Plaintiff was ordered to pay an initial partial filing fee of \$6.00, in accordance with 28 U.S.C. § 1915(b). Docket No. 6. When he did not comply or otherwise respond to this order, the Magistrate Judge issued a Report on January 19, 2023, recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 9. The Magistrate Judge also recommended that the statute of limitations be suspended for a period of 60 days following the date of entry of final judgment. *Id.*

A copy of this Report was sent to Plaintiff at his last known address and was received by a person named Daniela Harrell on January 24, 2023. Docket No. 10. Because no objections have been received, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Civil Action No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July

31, 2021).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (Docket No. 9) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-captioned civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that the statute of limitations on the claims in this lawsuit is **SUSPENDED** for a period of 60 days following the date of entry of final judgment. Such suspension shall not affect any claims upon which limitations had already expired at the time the lawsuit was filed.

So ORDERED and SIGNED this 12th day of April, 2023.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE